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5 Sept 2002

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05 Sept 2002
Commissioner of Patents and
Trademarks
Washington DC 20231

PURSUANT to CFR § 1.181

Complaint + Petition to the Commissioner

Re: US Appl. No: 09/242,072
Int. Appl. No : PCT/AU96/00442
Int. Filing Date : 05 Aug 96

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SEP 5 2002
GROUP 1700**

COMPLAINT:

My application is being handled by the allocated examiner in a manner not in accordance with the letter and spirit of codes designed to protect the interests of individual inventors.

I am petitioning for relief from the situation that this particular examiner has now unjustifiably steered me into in a way that I will now attempt to elucidate.

Actions leading to present situation:

9 Oct 2000	IPC Application version amended to comply with USPTO formalities requirements.	
10 March 2001	Summary Office Action I	All claims 1 – 20 rejected or objected to on merit and matters of form.
2 Apr. 2001	Applicants response I	All objections responded to.

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13 March 2002	Summary Office Action II FINAL	New grounds for rejection and objection of ALL claims based on formal matters and the allegation of the introduction of new material in the final USPTO version.
7 June 2002	Applicant's Response II	All formal matters attended to and allegations of new material in the USPTO version disproved.
Interim comment:	At this stage according to normal office practice, prosecution as to the merits of the claims should have been formally closed and the condition of allowance except for formal matters declared.	
23 June 02	Office Action (Advisory Action) III	Examiner raises NEW issues as grounds for the continued rejection or objection of ALL claims and the specification. The issues consisted of further formal matters and alleged NEW MATERIAL in the final USPTO version of the application.
Interim comment:	According to normal practice, at the very latest on 23 June 02 the application should have conformed with the condition of allowance . Raising further NEW grounds for rejection, all of which were available to the examiner at the time of the Summary Office Action II FINAL, cannot be justified.	
16 Aug 02	Applicants Response III	All new matters responded to

Conclusion:

1. It is farcical for an examiner to set a period for response by an applicant if
the period for response has already expired **before** the mailing date 23
June 02 of the Office Action (Office advisory action III).
2. All the applicants responses I, II and III were accurate, complete and
exhaustive. There is no record in any Office Action of any non-acceptance
of the applicant's previous response.

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- 3. No new grounds for refusal concerning the introduction of new material or formalities are made by the applicant in any of the responses I, II and III.**

PETITION:

To treat applicants Response III, filed 16 Aug 02 as timely and as basis for determining a declaration of allowance.

Peter A. Miller

Inventor and Applicant

PS: As a precautionary measure funds are available in my Deposit acc. 501200 to cover fees for any extension of time that may be necessary to further process my response filed 16 Aug 02 (CFR § 1.136).